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STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

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April 21, 2016

16-NWP-067

Mr. Ray J. Corey, Assistant Manager for River and Plateau  
Richland Operations Office  
United States Department of Energy  
PO Box 550, MSIN: A5-11  
Richland, Washington 99352

Re: Hanford Federal Facility Agreement and Consent Order (HFFACO) Change Control Form,  
Change Number M-89-16-01, dated 2/2/2016

Dear Mr. Corey:

Enclosed is a copy of Tri-Party Agreement (TPA) Change Control Package M-89-16-01,  
disapproved by Tom Tebb.

HFFACO Action Plan Section 12.3.3 states:

“If a party disapproves a requested modification, it shall explain the basis for the  
disapproval in writing.”

The Department of Ecology’s (Ecology) basis for disapproval is as follows:

1. The U.S. Department of Energy – Richland Operations Office (USDOE-RL) did not provide Good Cause for the extension, as required by HFFACO Article XL. USDOE-RL’s stated cause for the extension is that “DOE and Ecology agree [on the extension].” While agreement between the parties is one method for satisfying Article XL’s Good Cause standard (paragraph 120.E), Ecology does not, and has not, agreed to this extension. Therefore, USDOE-RL did not identify any of the reasons for Good Cause (paragraphs 120.A – 120.E).
2. USDOE-RL misrepresented the status of Milestone M-89-06 on March 17, 2016. Specifically, Change Number M-89-16-01 is dated February 2, 2016, and was signed March 31, 2016. However, a quarterly review of TPA milestones was held between the parties on March 17, 2016. At that time, USDOE-RL reported the status of Milestone M-89-06 as “On Schedule.” The date of February 2, 2016, on the change request provides clear indication that USDOE-RL well understood that it would miss Milestone M-89-01. By making this misrepresentation to Ecology, USDOE-RL deprived Ecology of the opportunity to discuss the milestone, as provided by HFFACO Action Plan Sections 4.1 and 4.2.
3. As noted in the milestone text, USDOE-RL has a closure plan approved by Ecology (DOE/RL-96-73). USDOE-RL has known about this requirement for almost three years,



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since the execution of TPA Change Request M-89-12-02 on April 30, 2013. Ecology asserts that three years is more than adequate time to modify an approved closure plan.

Please be advised that should USDOE-RL fail to submit the permit modification request (including a schedule for completing closure activities) by June 30, 2016, then USDOE-RL is subject to stipulated penalties as provided in HFFACO Article IX. Further, Ecology asserts that by reporting the M-89-06 milestone as "On Schedule" on March 17, 2016, USDOE-RL failed to make "timely and *good faith* request for an extension" (HFFACO Article 125) (emphasis added). Therefore, USDOE-RL forfeits the right to toll any assessment of Stipulated Penalties pursuant to HFFACO Article XL.

If you have questions, please contact Stephanie Schleif, Ecology Project Manager, at [stephanie.schleif@ecy.wa.gov](mailto:stephanie.schleif@ecy.wa.gov) or (509) 372-7929.

Sincerely,

John B. Price  
Tri-Party Agreement Section Manager  
Nuclear Waste Program

tkb  
Enclosure

cc electronic w/enc:

Dave Bartus, EPA  
Dennis Faulk, EPA  
Cliff Clark, USDOE  
Mark French, USDOE  
Jon Perry, MSA  
Rob Piippo, MSA  
Ken Niles, ODOE  
John Price, Ecology  
Stephanie Schleif, Ecology  
Ron Skinnarland, Ecology  
Alex Smith, Ecology  
Environmental Portal  
Hanford Facility Operating Record  
USDOE-RL Correspondence Control


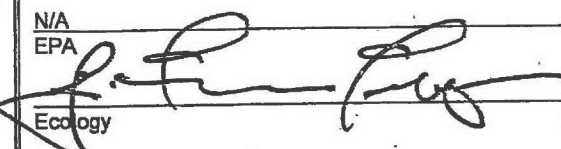
cc w/enc:

Steve Hudson, HAB  
Administrative Record  
NWP Central File

cc w/o enc:

Rod Skeen, CTUIR  
Gabriel Bohnee, NPT  
Russell Jim, YN  
NWP Reader File



<b>Change Number</b> M-89-16-01	<b>Federal Facility Agreement and Consent Order Change Control Form</b>	<b>Date</b> 2/2/2016
<b>Originator</b> R.J. Corey		<b>Phone</b> (509) 373-9971
<b>Class of Change</b> <input type="checkbox"/> I - Signatories <input checked="" type="checkbox"/> II - Executive Manager <input type="checkbox"/> III - Project Manager		
<b>Change Title</b> Revision To Milestone Permit Modification Class Language And Schedule For 324 Building		
<b>Description/Justification of Change</b> <p>Hanford Federal Facility Agreement and Consent Order (HFFACO) Milestone M-089-06 requires that the U.S. Department of Energy (DOE) submit to the Washington State Department of Ecology (Ecology) a permit modification request to incorporate the 324 building Closure Plan, with revisions as necessary, and establish a schedule for completing closure activities.</p> <p>The contract responsibility for the 324 Building is being transferred starting in April of 2016. Following this transition of the 324 Building work scope, the new contractor will be responsible for initiating the facility closure process per the schedule in the Closure Plan, when approved.</p> <p>The current Milestone language requires that a request for a Class 2 permit modification is provided to Ecology. Deletion of this language is proposed until the parties can agree on the permitting path forward and required changes to the Hanford Site Dangerous Waste permit.</p> <p>DOE and Ecology agree that the Milestone schedule should be extended by three (3) months to accommodate the development of an agreeable path forward between the parties and planning activities resulting from these changes. The extension will also allow the contractor to incorporate the elements of the recently developed "Nuclear Waste Program Guidance for Assessing Closure Requirements in the Draft Hanford Facility Dangerous Waste Permit Revision 9 – WA7890008967 (Closure Requirements – Conceptual Agreement Package)" in to the Closure Plan revision to assure completeness and sufficiency of the revision.</p>		
<b>Impact of Change</b> <p>The change to Milestone M-089-06 allows for a three (3) month extension of the milestone to accommodate the development of an agreement between the parties on the 324 Building permitting approach, implementation of the permitting approach, and to allow development of a Closure Plan revision consistent with internal Ecology guidance. This change is consistent with the M-094 milestone series for removal of 300 area surplus facilities.</p>		
<b>Affected Documents</b> <p>The HFFACO, as amended.</p>		
<b>Approvals</b> <div style="display: flex; justify-content: space-between;"> <div>             DOE         </div> <div>           3/31/16    <input checked="" type="checkbox"/> Approved    <input type="checkbox"/> Disapproved            Date         </div> </div> <div style="display: flex; justify-content: space-between;"> <div>           N/A            EPA         </div> <div>           _____            Date    <input type="checkbox"/> Approved    <input type="checkbox"/> Disapproved         </div> </div> <div style="display: flex; justify-content: space-between;"> <div>             Ecology         </div> <div>           4-14-16    <input type="checkbox"/> Approved    <input checked="" type="checkbox"/> Disapproved            Date         </div> </div>		Page 1 of 2

Received 4-14-16  
DOE-RL  
K. Hunter

Modifications are denoted by using ~~strikeout~~ to indicate text deletions and double underline to indicate text additions.

M-089-06 Lead <u>Regulatory</u> Agency: Ecology	<del>Submit to Ecology in accordance with the procedures in WAC 173-303-830(4)(b), a request for a Class 2 modification to the</del> <u>Submit to Ecology in accordance with the procedures in WAC 173-303-830(4), a request for a permit modification to the</u> Hanford dangerous waste permit, to include in the permit the "324 Building Radiochemical Engineering Cells; High-Level Vault, Low-Level Vault, and Associated Area Closure Plan" (Closure Plan), DOE/RL-96-73" revised as necessary to address releases to the soil and to ensure compliance with requirements of WAC-173-303-610. DOE's revised closure plan will include a schedule for completing closure activities.	06/30/2016 <u>9/30/2016</u>
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